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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

OF THE COUNCIL OF EUROPE

(VENICE COMMISSION)

REPUBLIC OF MOLDOVA

DRAFT LAW ON THE PROSECUTION OFFICE

ON ANTICORRUPTION AND COMBATTING ORGANISED CRIME

AND

EXPLANATORY REPORT

Draft

LAW

on the Prosecution Office on Anticorruption

and Combatting Organised Crime

The Parliament adopts this organic law.

Chapter I
GENERAL PROVISIONS

Article 1. Regulation scope and legal framework

(1) This law establishes the manner of organisation and operation of the Prosecution Office on Anticorruption and Combatting Organised Crime, instituted by Law no. 3/2016 on the Prosecution Office.

(2) The activity of the Prosecution Office on Anticorruption and Combatting Organised Crime is regulated by this law, by Law no. 3/2016 on the Prosecution Office, by other normative acts, as well as by international treaties to which the Republic of Moldova is party.

Article 2. Organisational and operational independence of the Prosecution Office for Anticorruption and Combatting Organised Crime and of the prosecutors thereof

(1) The Prosecution Office on Anticorruption and Combatting Organised Crime is an independent entity under the Prosecution Office, with a status of specialised prosecution office, which carries out its activity in accordance with the organisation and activity principles of the Prosecution Office and of the prosecutor, provided for in Law no. 3/2016 on the Prosecution Office.

(2) The activity of the Prosecution Office on Anticorruption and Combatting Organised Crime shall be organised and coordinated by its Chief Prosecutor.

(3) The budget of the Prosecution Office on Anticorruption and Combatting Organised Crime shall be reflected separately in the budget of the Prosecution Office and shall be administered by its Chief Prosecutor.

(4) The prosecutors of the Prosecution Office on Anticorruption and Combatting Organised Crime shall be procedurally independent under the conditions stipulated in the Code of Criminal Procedure of the Republic of Moldova and Law no. 3/2016 on the Prosecution Office.

Article 3. Competence scope of the Prosecution Office on Anticorruption and Combatting Organised Crime

(1) The duties of the of the Prosecution Office on Anticorruption and Combatting Organised Crime are established by Law no. 3/2016 on the Prosecution Office, the Code of Criminal Procedure of the Republic of Moldova and its own activity rules.

(2) The Prosecution Office on Anticorruption and Combatting Organised Crime is specialised in the field of *combatting corruption offences and acts related to corruption acts,* as well as in the field of *combatting organised criminality, terrorism and torture,* carrying out the following specific duties:

a) conducting criminal prosecution in corruption cases and in cases related to corruption acts, torture offences, offences with terrorist character and cases of offences committed by a criminal organisation, as well as other cases referred under its competence, in accordance with the criminal procedural legislation;

b) leading the criminal prosecution in cases of offences in which the criminal prosecution is conducted by the criminal prosecution bodies of the central specialty bodies;

c) conducting or leading the criminal prosecution in the cases referred to it for handling by the Prosecutor General;

d) representing the claimant in the court trial on the merits, the first and second appeal trials mentioned in letters a), b) and c).

(3) The Prosecution Office on Anticorruption and Combatting Organised Crime shall ensure, within the remit of its competence, the carrying out of the duties of the Prosecution Office.

Chapter II
ORGANISATION AND OPERATION OF THE PROSECUTION OFFICE ON ANTICORRUPTION AND COMBATTING ORGANISED CRIME

Article 4. Organisation of the Prosecution Office on Anticorruption and Combatting Organised Crime

(1) The Prosecution Office on Anticorruption and Combatting Organised Crime has a status of legal entity, has a treasury account, an emblem and stamp with its distinct insignia. The emblem and the model of the stamp of the Prosecution Office on Anticorruption and Combatting Organised Crime shall be approved by the Prosecutor General at the proposal of its Chief Prosecutor.

(2) The Prosecution Office on Anticorruption and Combatting Organised Crime shall be headquartered in the Municipality of Chișinău and shall exercise its duties on the entire territory of the Republic of Moldova.

(3) The structure of the Prosecution Office on Anticorruption and Combatting Organised Crime shall be established and shall be changed by the Prosecutor General, at the proposal of its Chief Prosecutor, with the written consent of the Superior Council of Prosecutors.

(4) The Prosecution Office on Anticorruption and Combatting Organised Crime may have territorial bureaus and agencies on the ground, which are instituted by the Prosecutor General, at the proposal of its Chief Prosecutor, with the written consent of the Superior Council of Prosecutors.

(5) The Prosecution Office on Anticorruption and Combatting Organised Crime is organised in internal subdivisions, which contribute to the accomplishment of its duties, as well as subdivisions offering administrative and technical support.

(6) The activity of the internal subdivisions of the Prosecution Office on Anticorruption and Combatting Organised Crime and of its territorial bureaus and agencies is organised and coordinated by its Chief Prosecutor or by their Deputies in accordance with the established competences.

(7) In order to ensure internal and external communication of the Prosecution Office on Anticorruption and Combatting Organised Crime, as well as the efficient management of its relations with the public and the representatives of mass-media, it shall have a unit for information and mass-media communication.

(8) The economic and financial, administrative, secretarial and archival activities of the Prosecution Office on Anticorruption and Combatting Organised Crime shall be ensured by the relevant internal subdivisions.

(9) The Prosecution Office on Anticorruption and Combatting Organised Crime shall have an official webpage.

Article 5. Leadership of the Prosecution Office on Anticorruption and Combatting Organised Crime

(1) The Prosecution Office on Anticorruption and Combatting Organised Crime is an institution organised according to principles of procedural and administrative hierarchy. The procedural hierarchy is established and regulated by the Code of Criminal Procedure of the Republic of Moldova and Law no. 3/2016 on the Prosecution Office and provides for the order of hierarchic control in the criminal procedural framework. The administrative hierarchy is established in Law no. 3/2016 on the Prosecution Office, this law and the Rules of activity of the Prosecution Office on Anticorruption and Combatting Organised Crime and it shall institute the internal hierarchic order in the process of administration of the Prosecution Office on Anticorruption and Combatting Organised Crime.

(2) The Prosecution Office on Anticorruption and Combatting Organised Crime is headed by a Chief Prosecutor, helped by one Deputy or, as the case may be, by several Deputies.

(3) In the exercise of their duties, the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime shall issue orders and other types of documents provided for by the Rules of activity of the Prosecution Office on Anticorruption and Combatting Organised Crime.

(4) The Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime shall carry out the following duties:

a) shall organise and coordinate the activity of the Prosecution Office on Anticorruption and Combatting Organised Crime, including of its territorial bureaus and agencies and shall be responsible for the appropriate accomplishment of the duties of the Prosecution Office on Anticorruption and Combatting Organised Crime;

b) shall establish and distribute the duties of the prosecutors and other personnel within the Prosecution Office on Anticorruption and Combatting Organised Crime;

c) shall draw up and propose to the Prosecutor General the draft annual budget of the Prosecution Office on Anticorruption and Combatting Organised Crime;

d) shall draw up and propose for approval to the Prosecutor General the draft Rules of activity of the Prosecution Office on Anticorruption and Combatting Organised Crime;

e) shall organise the selection of the personnel of the Prosecution Office on Anticorruption and Combatting Organised Crime, except for the prosecutors;

f) shall ensure the fulfilment, within the Prosecution Office on Anticorruption and Combatting Organised Crime, of the requirements regarding the protection of state secret and of other information with limited access;

g) shall formulate proposals regarding the incentivisation or disciplinary sanctioning of the prosecutors within the Prosecution Office on Anticorruption and Combatting Organised Crime;

h) shall appoint, promote, transfer and dismiss, apply encouragement measures and disciplinary sanctions to the personnel of the Prosecution Office on Anticorruption and Combatting Organised Crime, except for the prosecutors;

i) shall represent the Prosecution Office on Anticorruption and Combatting Organised Crime in the relations with other public authorities of the country and with similar institutions of other countries, shall initiate and sign, under the conditions of the law, cooperation agreements with similar institutions of other countries, having the consent of the Prosecutor General;

j) shall organise and implement the system of internal managerial control in the Prosecution Office on Anticorruption and Combatting Organised Crime and shall bear managerial responsibility for the administration of the budget of the institution and of the public patrimony under the management of the Prosecution Office on Anticorruption and Combatting Organised Crime;

k) shall prepare the annual report on the activity of the Prosecution Office on Anticorruption and Combatting Organised Crime;

l) shall exercise other duties provided for by law and normative acts subordinated to the law.

(5) the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime shall submit to the Prosecutor General, every year, before 15 February of the current year, a report on the activity of the specialised Prosecution Office in the previous year. The report shall be published on the official webpage of the of the specialised Prosecution Office.

(6) In the absence of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime, their duties shall be carried by a Deputy designated by the order of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime.

(7) The Deputies of the Chief Prosecutor shall be directly subordinated to the Chief Prosecutor and shall organise the activity of the Prosecution Office on Anticorruption and Combatting Organised Crime within the limit of the powers given to them by the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime.

Article 6. Evaluation of the performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime

(1) With a view to appraising the activity and conformity with the office held, the performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime shall be evaluated by a committee for the evaluation of the performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime, established ad-hoc by the Superior Council of Prosecutors.

(2) The evaluation of the performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime shall be initiated upon notification by the Prosecutor General or by at least 1/3 of the members of the Superior Council of Prosecutors. The evaluation of performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime may not be conducted more often than once in two years and only for the period preceding the date of evaluation in which the person has effectively worked. For the same activity period, more evaluation procedure may not be initiated.

(3) The Committee for the evaluation of the performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime shall be constituted within 10 days from the moment of the initiation of the evaluation procedure. The Committee shall be made up of 5 members, out of which at least 2 members have a professional experience in the position of prosecutor of at least 7 years. The members shall be proposed as follows: one shall be proposed by the Prosecutor General, one – by the Ministry of Justice, one – by the Superior Council of Magistrates, one – by the Superior Council of Prosecutors and one – by the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised

Crime, who is subjected to evaluation. The fact that proposals for the membership of the committee have not been submitted by all the subjects shall not impede its constitution, if at least 3 subjects have proposed members, out of which at least 2 have a professional experience of at least 7 years in a prosecutor position. The meetings of the evaluation commission shall be deliberative if they are attended by the majority of the members indicated in the constitutive act.

(4) The quality of member of the committee of evaluation of the performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime may be held by persons having a qualification in the legal field, in public management, with an experience of at least 10 years in their professional activity field and an unreproachable reputation. The member of the committee of evaluation of the performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime proposed by the Ministry of Justice may not be employed in the public service. The quality of member of the committee of evaluation of the performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime may not be held by persons subordinated to the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime.

(5) The activity of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime shall be evaluated in accordance with the following activity criteria:

a) managerial competence regarding: the good quality planning of the activity of the Prosecution Office on Anticorruption and Combatting Organised Crime; the organisation of the operational management, including through clear distribution of duties among the subdivisions of the Prosecution Office on Anticorruption and Combatting Organised Crime and by applying the standards of control of their implementation; the formulation of risk management policies; the creation and maintenance of a work-friendly organisational climate, the motivation and incentivisation of the personnel's professionalism; the ensuring of the evaluation of the personnel performance; adaptation of the style of leadership to the requirements of the position and taking responsibility for the decisions made;

b) professional competence regarding: the use of professional capacities and abilities for the optimal accomplishment of the duties, and implicitly, of the duties of the Prosecution Office on Anticorruption and Combatting Organised Crime; the carrying out of operational processes; making well-founded decisions;

c) efficiency regarding: the efficient management of human, technical and information resources; ensuring and promoting the legality, integrity and meritocracy of the personnel; the implementation of the risk management, including corruption risks, risks of use by the prosecutors of their official duties in other interests than those established by law and risks of irregular application of the law; ensuring the functionality of the mechanism for the specialisation of the personnel;

d) efficient internal and external communication.

(6) The level of conformity of the performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime with the requirements

for the accomplishment of duties shall be established in accordance with the performance indicators established in relation to each evaluation criteria.

(7) The manner of evaluation and the performance indicators shall be established in detail in rules approved by the Superior Council of Prosecutors. The rules shall contain the elements specified in art. 30 paras (2) and (3) of Law no. 3/2016 on the Prosecution Office and shall be published on the official webpage of the Superior Council of Prosecutors.

(8) The Committee for the evaluation of the performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime is entitled to hear any prosecutor or any other employee of the Prosecution Office on Anticorruption and Combatting Organised Crime, to request and receive from any person written explanations, data and information, including analytical data, to engage in the process of evaluation independent experts, and to order audits, including of the institutional management. The Evaluation commission shall hear, obligatorily, the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime.

(9) Following the evaluation of the performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime, the Committee for the evaluation of the performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime shall draw up, within 30 days at the most, a well-founded report through which it proposes the award of one of the following grades: “excellent”, “good”, “unsatisfactory”. The report with the proposed grade, having an advisory character, shall be submitted to the Superior Council of Prosecutors.

(10) The Superior Council of Prosecutors shall examine the report of the committee for the evaluation of the performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime. As a result of the examination, the Superior Council of Prosecutors shall adopt a decision regarding the award of a one of the grades “excellent”, “good”, “unsatisfactory” or, if it considers that the committee evaluation was conducted in breach of procedure and this breach has had a decisive effect on the results of the evaluation, it shall adopt a decision to return the report for the repeat of the procedure for the performance evaluation. Under the repeated procedure for the evaluation of performance, the committee for the evaluation of the performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime is obliged to consider the objections stated by the Superior Council of Prosecutors.

(11) In case of adoption of the decision to award the grade “unsatisfactory”, the Superior Council of Prosecutors shall propose to the Prosecutor General the dismissal of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime.

(12) In case of finding certain appearances of disciplinary misconducts, the committee for the evaluation of the performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime shall notify the Superior Council of Prosecutors in accordance with art. 43 of Law no. 3/2016 on the Prosecution Office.

Chapter III
PERSONNEL OF THE PROSECUTION OFFICE ON ANTICORRUPTION AND COMBATTING ORGANISED CRIME

Article 7. Personnel of the Prosecution Office on the Anticorruption and Combatting Organised Crime

(1) Criminal prosecution officers, investigation officers, consultants, specialists, technical and administrative personnel shall be employed in the Prosecution Office on Anticorruption and Combatting Organised Crime within the limit of the positions specified in the payroll approved by the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime.

(2) The number of prosecutors of the Prosecution Office on Anticorruption and Combatting Organised Crime shall be established by the Superior Council of Prosecutors at the proposal of the Prosecutor General, in coordination with Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime.

(3) The transfer of a prosecutor from one territorial bureau or agency of the Prosecution Office on Anticorruption and Combatting Organised Crime to another one shall be carried out through the order of the Chief Prosecutor, with the consent of the respective prosecutor.

(4) The remuneration of the personnel of the Prosecution Office on Anticorruption and Combatting Organised Crime, including of the seconded personnel, shall be covered from the budget of the Prosecution Office on Anticorruption and Combatting Organised Crime.

Article 8. Seconded personnel

(1) The criminal prosecution officers, the investigation officers and the specialists who are to conduct their activity in the Prosecution Office on Anticorruption and Combatting Organised Crime shall be selected individually by the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime and shall be seconded from other institutions for a period of up to 5 years, which may be renewed for another 5-year period. The secondment shall be carried out by order of the Prosecutor General, with the prior endorsement of the head of the institution in which the seconded person works and with the written consent of the latter.

(2) The security and intelligence officers maybe seconded to the Prosecution Office on Anticorruption and Combatting Organised Crime under the conditions of para (1) for a period of up to 3 years. The secondment shall be conducted by order of the Prosecutor General, with prior endorsement by the director of the Intelligence and Security Service and the written consent of the intelligence and security officer. For the duration of the secondment, the intelligence and security officers shall obtain a status of investigation officers.

(3) The criminal prosecution officers, the investigation officers and the specialists who are to conduct their activity in the Prosecution Office on Anticorruption and Combatting Organised Crime, in the process of selection, shall be subjected to a test regarding psychological aptitudes for the fulfilment of the duties, as well as to a test of simulated behaviour on a polygraph.

(4) The criminal prosecution officers, the investigation officers, the intelligence and security officers and the specialists seconded from other institutions shall conduct their activities only within the Prosecution Office on Anticorruption and Combatting Organised Crime and shall be subordinated administratively to the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime.

(5) Seconded criminal prosecution officers, investigation officers, intelligence and security officers and specialists shall conduct their activities only at the direction and under the control of the prosecutors of the Prosecution Office on Anticorruption and Combatting Organised Crime and shall carry out only the criminal prosecution actions and special investigation measures ordered by these prosecutors.

(6) The secondment of the criminal prosecution officers, investigation officers and specialists to the Prosecution Office on Anticorruption and Combatting Organised Crime shall

cease ahead of time by their removal from office by the Prosecutor General at the proposal of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime.

(7) The secondment of the intelligence and security officers to the Prosecution Office on Anticorruption and Combatting Organised Crime shall cease ahead of time by removal from office by the Prosecutor General, at the proposal of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime or at the request of the Director of the Intelligence and Security Service priorly coordinated with the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime.

(8) The legislation on the status of the criminal prosecution officers and of the investigation officers shall be applied to the personnel seconded for the duration of the secondment to the Prosecution Office on Anticorruption and Combatting Organised Crime to the extent that it does not contravene the provisions of this law.

(9) The seconded personnel shall be awarded special ranks under the conditions of the law, by the heads of the institutions from which the respective personnel are seconded, at the proposal of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime.

Article 9. The identification card of the personnel of the Prosecution Office on Anticorruption and Combatting Organised Crime

(1) Upon appointment to office or secondment to the Prosecution Office on Anticorruption and Combatting Organised Crime, the prosecutors, the criminal prosecution officers, the investigation officers and the specialists shall receive identification cards which model shall be approved by the Superior Council of Prosecutors.

(2) Upon termination of the labour relations of the personnel of the Prosecution Office on Anticorruption and Combatting Organised Crime as well as in the period of their suspension from office or of their removal from the fulfilment of official duties, the identification card shall be withdrawn.

Chapter IV
COOPERATION AT NATIONAL AND INTERNATIONAL LEVEL

Article 10. National and international cooperation of the Prosecution Office on Anticorruption and Combatting Organised Crime

(1) The Prosecution Office on Anticorruption and Combatting Organised Crime, within the remit of its competence and upon conduct of its activities, shall cooperate and may institute partnerships with national, foreign and international public organisations and institutions.

(2) The Prosecution Office on Anticorruption and Combatting Organised Crime may cooperate directly with similar foreign public organisations or institutions with a view to mutual consultations regarding the offences under their competence, as well as for the exchange of data and information regarding the investigation of such offences.

Chapter V
FINAL AND TRANSITIONAL PROVISIONS

Article 11. Final provisions

(1) This law amends certain normative acts in accordance with the annex.

(2) This law shall enter into force upon publication in the Official Journal of the Republic of Moldova.

(3) The Prosecution Office on Anticorruption and Combatting Organised Crime shall be created from the moment of the entering into force or this law and shall be the successor by right of the Prosecution Office on Combatting Organised Criminality and Special Cases and of the Anticorruption Prosecution Office. The Prosecution Office on Anticorruption and Combatting Organised Crime is to become operational after the approval by the Superior Council of Prosecutors of an ad interim Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime in accordance with the provisions of para (18) letter b).

(4) The Prosecution Office on Combatting Organised Criminality and Special Cases and the Anticorruption Prosecution Office shall cease their activity upon expiry of a 30-day term from the date of the entering into force of this law.

(5) On the day of the termination of the activity of the Prosecution Office on Combatting Organised Criminality and Special Cases and of the Anticorruption Prosecution Office, the mandates of the Chief Prosecutors of these two specialised prosecution offices and of their Deputies, including of the interims, shall cease by right. Until the termination of the activity of the Prosecution Office on Combatting Organised Criminality and Special Cases and of the Anticorruption Prosecution Office, the prosecutors, the Chief Prosecutors and their Deputies of the two prosecution offices shall be proposed the transfer, with their consent and without contest, in other territorial prosecution offices, to vacant prosecutor positions, except for the positions of chief prosecutor.

(6) With a view to ensure the possibility of the transfer of the prosecutors, chief prosecutors and their deputies from the two prosecution offices which are to cease their activity, to territorial prosecution offices, the Prosecutor General, within 5 working days from the day of the entering into force of this law, shall ensure their prenotification with a proposal to opt for one of the vacant prosecutor positions available in the territorial prosecution offices.

(7) On the day of the termination of the activity of the Prosecution Office on Combatting Organised Criminality and Special Cases and of the Anticorruption Prosecution Office, the personnel of the Prosecution Office on Combatting Organised Criminality and Special Cases and of the Anticorruption Prosecution Office, which includes consultants, specialists and technical and administrative personnel, as well as the personnel seconded from other institutions, shall continue their activities in the Prosecution Office on Anticorruption and Combatting Organised Crime, within the limit of the payroll. The ongoing secondments of the personnel of the two specialised prosecution offices that will cease their activities shall be kept within the Prosecution Office on Anticorruption and Combatting Organised Crime, until the expiry of the term for which they have been ordered.

(8) Movable and immovable property of the Prosecution Office on Combatting Organised Criminality and Special Cases and of the Anticorruption Prosecution Office shall be transferred to the Prosecution Office on Anticorruption and Combatting Organised Crime.

(9) Cases pending at the level of the Prosecution Office on Combatting Organised Criminality and Special Cases and of the Anticorruption Prosecution Office, solved cases which files are stored in the archives of the Prosecution Office on Combatting Organised Criminality and Special Cases and of the Anticorruption Prosecution Office, as well as other documents under execution in these prosecution offices shall be transferred by administrative means to the Prosecution Office on Anticorruption and Combatting Organised Crime.

(10) With a view to executing the provisions of paras (8) and (9), the Prosecution Office on Combatting Organised Criminality and Special Cases and the Anticorruption Prosecution Office, until the expiry of the deadline specified in para. (4), shall ensure the transfer of movable and immovable properties, of their archives, as well as of the case files, materials, other documents under execution therein to the Prosecutor General's Office. The transfer shall be carried out following a calendar of actions coordinated jointly and with the Prosecutor General's Office establishing joint transfer committees for each of the two specialised prosecution offices, to which

an equal number of representatives of the Prosecutor General's Office and of the respective specialised prosecution office shall be designated, and which will be responsible for drawing up the acts regarding the inventory of property, of case files, of materials, of other transferred documents, as well as the final handover documents.

(11) Within 30 days from the moment of the beginning of the activity of the Prosecution Office on Anticorruption and Combatting Organised Crime in accordance with the provisions of para (3), the Prosecutor General's Offices shall ensure the transfer to the Prosecution Office on Anticorruption and Combatting Organised Crime of the movable and immovable property, the archives, as well as of the case files, materials, and other documents taken over from the Prosecution Office on Combatting Organised Criminality and Special Cases and from the Anticorruption Prosecution Office. The transfer shall be carried out in accordance with the procedures specified in para (10).

(12) The notifications received after the entering into force of this law shall be transferred to the Prosecutor General's Office, which will redirect them, in accordance with the competence stated in this law, towards the Prosecution Office on Anticorruption and Combatting Organised Crime, from the moment of the beginning of its activity in accordance with the provisions of para (3).

(13) Until the moment of the beginning of the activity of the Prosecution Office on Anticorruption and Combatting Organised Crime in accordance with the provisions of para. (3), the Government:

a) shall ensure the allocation of headquarters for the Prosecution Office on Anticorruption and Combatting Organised Crime and shall transfer the headquarters to the respective Prosecution Office from the moment of its creation;

b) shall allocate necessary financial resources for the procurement of equipment and other technical means in order to ensure the activity of the Prosecution Office on Anticorruption and Combatting Organised Crime;

c) shall draw up and put forward the appropriate proposals for the adjustment of the Law on state budget for 2025.

(14) By derogation from the provisions of art. 5 para. (4) letter d), the Rules of activity of the Prosecution Office on Anticorruption and Combatting Organised Crime in the initial edition, shall be drawn up and approved by the Prosecutor General within the deadline specified in art. 12 para. (1).

(15) By derogation from the provisions of art. 7 para. (2), the initial establishing of the number of prosecutors of the Prosecution Office on Anticorruption and Combatting Organised Crime shall be carried out by the Superior Council of Prosecutors at the proposal of the Prosecutor General within the deadline specified in art. 12 para. (1).

(16) The Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime shall assess the need for prosecutors in the Prosecution Office on Anticorruption and Combatting Organised Crime once a year, the initial term running from the day of the beginning of the activity of this prosecution office in accordance with the provisions of para. (3). The conclusions of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime shall be submitted to the Prosecutor General, who shall propose to the Superior Council of Prosecutors the updated number of prosecutors, along with the assessment and the conclusions of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime, with a view to its approval in accordance with the provisions of art. 7 para. (2).

(17) The updated number of prosecutors of the Prosecution Office on Anticorruption and Combatting Organised Crime, approved by the Superior Council of Prosecutors under the conditions of para. (16) may not be smaller than the initial number of prosecutors established in accordance with the provisions of para. (15).

(18) Within 10 working days from the day of the entering into force of this law:

a) the Superior Council of Prosecutors and the Prosecutor General shall approve the structure of the Prosecution Office on Anticorruption and Combatting Organised Crime;

b) the Prosecutor General shall designate an ad interim Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime, who is to ensure the respective interim office until the appointment to office of a Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime in accordance with para. (20), and shall submit the ordered appointment into the interim office for the approval by the Superior Council of Prosecutors, in accordance with the provisions of art. 27^1 of Law no. 3/2016 on the Prosecution Office.

c) the Superior Council of Prosecutors shall initiate the contest for the position of Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime, in accordance with the provisions of art. 25^1 of Law no. 3/2016 on the Prosecution Office, as well as the contest for the vacant prosecutor positions in the Prosecution Office on Anticorruption and Combatting Organised Crime, in accordance with the provisions on the organisation and carrying out of contests for occupying the vacant prosecutor positions in specialised prosecution offices under Law no. 3/2016 on the Prosecution Office.

(19) Within 3 days from the conclusion of the contest for the position of Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime, the Superior Council of Prosecutors shall put forward maximum two candidacies in the order of the results obtained for evaluation under Law no. 252/2023 on the external evaluation of judges and prosecutors and the amendment of certain normative acts.

(20) Within 3 days from the receipt of the reports of the Committee on the evaluation of the prosecutors, the Superior Council of Prosecutors shall propose the appointment to office of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime.

(21) By derogation from the provisions of art. 3 para. (1) letter g) of Law no. 252/2023 on the external evaluation of judges and prosecutors and the amendment of certain normative acts, for the purpose of operationalising quicker the Prosecution Office on Anticorruption and Combatting Organised Crime, the candidates who shall win the contest for occupying the vacant prosecutor positions in the Prosecution Office on Anticorruption and Combatting Organised Crime, organised in accordance with the provisions of para. (18) letter c), shall be appointed to office without being subjected priorly to the procedure of external evaluation of ethical and financial integrity.

(22) The prosecutors appointed within the Prosecution Office on Anticorruption and Combatting Organised Crime in accordance with the provisions of para. (21) shall be subjected subsequently to the procedure of external evaluation of ethical and financial integrity provided for by Law no. 252/2023 on the external evaluation of judges and prosecutors and the amendment of certain normative acts, in compliance with the provisions of art. 3 para. (3) of Law no. 252/2023 on the external evaluation of judges and prosecutors and the amendment of certain normative acts.

(23) The prosecutors meeting the legal requirements established by art. 20 para. (4) of Law no. 3/2016 on the Prosecution Office, including the prosecutors, the chief prosecutors and their deputies conducting their activity in the Prosecution Office on Combatting Organised Criminality and Special Cases and in the Anticorruption Prosecution Office until the termination of their activity in accordance with the provisions of para. (4) may participate in the contest for occupying the vacant prosecutor positions in the Prosecution Office on Anticorruption and Combatting Organised Crime.

(24) By derogation from the provisions of Law no. 270/2018 on the unitary remuneration system in the budget sector, the prosecutors, the chief prosecutors and their deputies who are conducting their activity in the Prosecution Office on Combatting Organised Criminality and

Special Cases and in the Anticorruption Prosecution Office and who are to be transferred in the territorial prosecution office in accordance with the provisions of para. (5) shall retain their remuneration rights relative to the positions they have held in the two prosecution offices that have ceased their activity.

(25) The subjects under para. (24) shall benefit of the provisions of this paragraph until the month immediately following the one in which the completion of all vacant positions in the Prosecution Office on Anticorruption and Combatting Organised Crime with prosecutors who have passed the procedure of external evaluation of ethical and financial integrity provided for in Law no. 252/2023 on the external evaluation of judges and prosecutors and the amendment of certain normative acts, is accomplished. From the very next month, they shall benefit of remuneration rights relative to the prosecutor positions they are holding at the respective moment.

(26) The implementation of the provisions of paras (24) and (25) shall be ensured jointly by the Government and the Prosecutor General's Office.

(27) Within 10 working days from the day of the approval by the Superior Council of Prosecutors of an ad-interim Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime, the latter shall propose to the Prosecutor General the delegation within the Prosecution Office on Anticorruption and Combatting Organised Crime of prosecutors from other prosecution offices.

(28) By derogation from the provisions of art. 54 para. (2) of Law no. 3/2016 on the Prosecution Office, the delegation of prosecutors from other prosecution offices to the Prosecution Office on Anticorruption and Combatting Organised Crime shall be carried out by the Prosecutor General only with the written consent of the Superior Council of Prosecutors. The delegation of prosecutors from other prosecution offices may be carried out, without their consent, for a period of up to 6 months in the course of one year, and with their written consent, for a period of up to 12 months.

Article 12. Transitional provisions

(1) Within 1 month from the day of the entering into force of this law, the public authorities responsible shall adopt normative acts necessary for the enforcement of the provisions of this law and shall introduce the necessary changes in their normative acts, in order to ensure their compliance with the provisions of this law.

(2) The procedural acts drawn up in cases provided for in art. 11 para. (9), in compliance with legal provisions in force on the day of their drawing up, shall remain valid.

(3) The resolutions consisting in ceasing the criminal prosecution, dismission from criminal prosecution and/or closure of case or refusal to initiate the criminal prosecution, as well as those consisting in sending the case for trial, ordered by the prosecutors of the Prosecution Office on Combatting Organised Criminality and Special Cases and of the Anticorruption Prosecution Office, which have not been subjected to hierarchical checks, shall be subjected from the day of the dissolution of the Prosecution Office on Combatting Organised Criminality and Special Cases and of the Anticorruption Prosecution Office to the checks conducted by the higher ranking prosecutor, provided for in art. 299^1 para. (2) of the Code of Criminal Procedure, appropriately complying with the provisions of art. 287, art. 299^1 and art. 299^2 of the Code of Criminal Procedure. By derogation from the provisions of art. 299^1 para. (3) of the Code of Criminal Procedure, after the dissolution of the Prosecution Office on Combatting Organised Criminality and Special Cases and of the Anticorruption Prosecution Office, the complaint against the respective resolutions, ordered by a prosecutor of one of the two specialised prosecution offices, shall be submitted exclusively to the Prosecutor General.

(4) Actions, inactions and acts drawn up or ordered by the prosecutors of the Prosecution Office on Combatting Organised Criminality and Special Cases and of the Anticorruption Prosecution Office in pending cases, which have not been the object of hierarchical checks, shall be subjected from the day of the dissolution of the Prosecution Office on Combatting Organised Criminality and Special Cases and of the Anticorruption Prosecution Office to the checks conducted by the higher ranking prosecutor, provided for in art. 299^1 para. (2) of the Code of Criminal Procedure, appropriately complying with the provisions of art. 299^1 and art. 299^2 of the Code of Criminal Procedure. By derogation from the provisions of art. 299^1 para. (3) of the Code of Criminal Procedure, after the dissolution of the Prosecution Office on Combatting Organised Criminality and Special Cases and of the Anticorruption Prosecution Office, complaints against the actions, inactions and acts drawn up or ordered by a prosecutor of one of the two specialised prosecution offices, shall be submitted exclusively to the Prosecutor General.

(5) From the day of the dissolution of the Prosecution Office on Combatting Organised Criminality and Special Cases and of the Anticorruption Prosecution Office, prosecutors of the Prosecution Office on Anticorruption and Combatting Organised Crime shall participate in the trial of the cases transferred in accordance with art. 11 para. (9), as well as in the resolution on the proposals, challenges, complaints or on any other requests formulated in these cases.

(6) By derogation from the provisions of art. 407 and art. 423 of the Code of Criminal Procedure, after the entering into force of this law, the review procedures stated by the prosecutors of the Prosecution Office on Combatting Organised Criminality and Special Cases and of the Anticorruption Prosecution Office may be withdrawn only with the written consent of the Prosecutor General.

(7) The prescriptive period for criminal prosecution shall not start running, and if they have started running, they shall be suspended from the moment of the entering into force of this law until the first working day following the expiry of the period stated in art. 11 para. (11).

(8) The terms provided for in the Code of Criminal Procedure with respect to the carrying out of the procedural acts, for the formulation of complaints, of any kind of appeals, shall not start running, and if they have started running, they shall be interrupted upon the entering into force of this law. The new terms, of the same duration, shall start running from the first working day following the expiry of the period provided for in art. 11 para. (11).

(9) By derogation from the provisions of art. 11 para. (11), in the cases in which preventive measures, security measures and other coercive procedural measures have been taken, the corresponding case files shall be transferred by the Prosecutor General's Office to the Prosecution Office on Anticorruption and Combatting Organised Crime as soon as it begins its activity in accordance with the provisions of art. 11 para. (3).

(10) The ad interim Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime shall analyse and decide on the ongoing measures mentioned in para. (9), being able to notify the court with requests relative thereto.

PRESIDENT OF THE PARLIAMENT

Annex
to the Law on the Prosecution Office on Anticorruption and Combatting Organised Crime
no.

Amendment of certain normative acts

I. – In the General Legislation Classifier, approved by Law no. 1325/1997 (Official Journal of the Republic of Moldova, 1998, no. 47–48, art. 344), with subsequent amendments, the text "06.04.13.03 Anticorruption Prosecution Office" shall be substituted with the text "06.04.13.03 Prosecution Office on Anticorruption and Combatting Organised Crime", and the text "06.04.13.04 Prosecution Office on Combatting Organised Criminality and Special Cases" shall be removed.

II. – The Code of Criminal Procedure of the Republic of Moldova no. 122/2003 (republished in the Official Journal of the Republic of Moldova, 2013, no. 248–251, art. 699), with subsequent amendments, shall be amended as follows:

1. In article 53^1, para. (1) letter d) the words "specialised prosecution offices" shall be substituted with the words "specialised prosecution office".

2. Article 257, para. (4^1) shall read as follows:

"(4^1) The Prosecution Office on Anticorruption and Combatting Organised Crime shall conduct and lead the criminal prosecution with respect to the offences under its competence, regardless of the place of their perpetration.".

3. Article 270^1 shall read as follows:

"**Article 270^1.** Competence of the Prosecution Office on Anticorruption and Combatting Organised Crime

(1) The Prosecution Office on Anticorruption and Combatting Organised Crime shall conduct the criminal prosecution with respect to the offences provided for in art. 324–335^1 and art. 352^1 para. (2) of the Criminal Code:

1) if these have been committed by:

a) persons whose manner of appointment or election is regulated by the Constitution of the Republic of Moldova, except for the elected local officeholders, others than those specified in letter b);

b) mayors, deputy mayors, local councillors of the Municipalities of Chişinău, Bălți, Cahul, Comrat and Bender;

c) persons who are invested by appointment or by election, by the Parliament, the President of the Republic of Moldova or the Government;

d) higher ranking executive public functionaries;

e) inspector judges of the Judicial Inspection or inspectors of the Prosecutor Inspection;

f) the secretary of the Supreme Security Council, the Chief of the Great General Staff of the National Army, other persons with accountable positions in the General Staff of the Armed Forces, as well as by persons holding a military rank of general or a special military rank corresponding to it;

g) the Deputy Director of the State Fiscal Service;

h) the Deputy Director of the Customs Service;

i) the Director and Deputy Director of the Public Procurement Agency;

j) the Deputy Head of the General Police Inspection, the Deputy Head of the Border Police General Inspection and the Deputy Head of the General Carabineer Inspection;

k) The Deputy General Director of the National Health Insurance Company;

l) workers of the National Anticorruption Centre in connection to the exercise of official duties;

m) intelligence and security officers;

2) regardless of the position of the person, if the sum of money, the value of goods, services, privileges, advantages in any form and of other benefits, claimed, promised, accepted, offered, given or received, exceed 10 000 conventional units or if the value of the prejudice caused by offence exceeds 100 000 conventional units.

(2) The Prosecution Office on Anticorruption and Combatting Organised Crime shall conduct the criminal prosecution in case of:

1) offences with terrorist character in the sense of art. 134^{11} of the Criminal Code;

2) offences provided for in art. 135–144, art. 166^{1} para. (3) and (4), art. 279, 283, 284, 295–295^{2}, 337–346 and 352^{2} of the Criminal Code;

3) offences provided for in art. 181^{2} para. (5) and art. 181^{3} of the Criminal Code;

4) offences provided for in art. 243 of the Criminal Code, if the goods derive from the offences under its competence in accordance with this article or if the offence has been revealed by it and the main offence is not known;

5) the offences provided for in art. 244, 248–248^2 and 249 of the Criminal Code, if the customs value of the merchandise, of the import rights or of the prejudice caused by means of the offence exceeds the value of 50000 conventional units;

6) especially serious and exceptionally serious offences committed by a criminal organised group in the sense of art. 46 of the Criminal Code, except for those mentioned in art. 269 of this code;

7) offences committed by a criminal organisation (association) in the sense of art. 47 of the Criminal Code, except for those mentioned in art. 269 of this Code.

(3) The Prosecution Office on Anticorruption and Combatting Organised Crime shall conduct the criminal prosecution in case of the offences provided for in art.191 of the Criminal Code, if these have been committed by misuse of the official position by the persons specified in para. (1) point 1) of this article.

(4) The Prosecution Office on Anticorruption and Combatting Organised Crime shall conduct the criminal prosecution in case of the offences provided for in art.243 of the Criminal Code if the property derives from corruption offences or offences connected to acts of corruption and the offence has been committed by persons specified in the para.(1) point 1) of this article.

(5) The Prosecution Office on Anticorruption and Combatting Organised Crime shall conduct the criminal prosecution in respect of offences provided for in art. 325 and 326 of the Criminal Code if these have been committed in relation to persons specified in para. (1) point 1) of this article.

(6) The Prosecution Office on Anticorruption and Combatting Organised Crime shall lead the criminal prosecution in the cases in which the criminal prosecution is conducted by the criminal prosecution bodies with general territorial competence of:

1) the Ministry of Internal Affairs;

2) the Customs Service;

3) the State Fiscal Service.”.

4. Article 270^2 shall be repealed.

III. – In article 11 para. (5) of Law no. 241/2005 on the prevention and combatting of the trafficking in human beings (Official Journal of the Republic of Moldova, 2005, no. 164–167, art. 812), the words “Prosecution Office on Combatting Organised Criminality and Special Cases” shall be substituted with the words “Prosecution Office on Anticorruption and Combatting Organised Crime”.

IV. – Law no. 3/2016 on the Prosecution Office (Official Journal of the Republic of Moldova, 2016, no. 69–77, art. 113), with subsequent amendments, shall be amended as follows:

1. Article 9:

in para. (1), the text "Prosecution Office on Combatting Organised Criminality and Special Cases" shall be substituted with the text "Prosecution Office on Anticorruption and Combatting Organised Crime";

para. (4) shall read as follows:

"(4) The Prosecution Office on Anticorruption and Combatting Organised Crime is specialised in combatting corruption offences, acts related to corruption acts, in combatting organised criminality, terrorism and torture and has the following specific duties:

a) conducting the criminal prosecution in cases of corruption and those related to corruption acts, torture offences, offences with terrorist character and in those regarding offences committed by a criminal organisation, as well as in other cases referred to its competence, in accordance with the criminal procedural legislation;

b) leading the criminal prosecution in cases in which the criminal prosecution is conducted by the criminal prosecution bodies of the of the central specialty bodies;

c) conducting or leading the criminal prosecution in cases transferred thereto for handling by the Prosecutor General;

d) representing the claimant in trials on merits, first appeal and second appeal trials in the cases mentioned in letters a), b) and c).";

para. (5) shall be repealed

2. Article 43 para. (1) shall be completed with letter f), reading as follows:

"f) in the case provided for in art. 6 para. (12) of *Law no. on Prosecution Office on Anticorruption and Combatting Organised Crime and the amendment of certain normative acts*, by the committee on the evaluation of the performance of the Chief Prosecutor of the Prosecution Office on Anticorruption and Combatting Organised Crime, if there are reasonable suspicions about the committal of the disciplinary irregularities provided for in art. 38.".

3. In article 52^1 para. (3), the text "art. 31^1 para. (9)" shall be substituted with the text "art. 31^1 para. (10)".

V. – In article 20, para. (1) letter b^1) of the Law no. 132/2016 on the National Integrity Authority (Official Journal of the Republic of Moldova, 2016, no. 245–246, art. 511), the words "Anticorruption Prosecution Office" shall be substituted with the words "Prosecution Office on Anticorruption and Combatting Organised Crime".

VI. – The Law no. 159/2016 on specialised prosecution offices (Official Journal of the Republic of Moldova, 2016, no. 245–246, art. 519) shall be repealed.

VII. – The Law on integrity no. 82/2017 (Official Journal of the Republic of Moldova, 2017, no. 229–243, art. 360), with subsequent amendments, shall be amended as follows:

1. In article 3, in the notion of “anticorruption authority”, the words “Anticorruption Prosecution Office” shall be substituted with the words “Prosecution Office on Anticorruption and Combatting Organised Crime”.

2. In article 43 para. (2), the words “Anticorruption Prosecution Office” shall be substituted with the words “Anticorruption Prosecution Office”.

VIII. – In article 3 para. 3 of Law no. 252/2023 on the external evaluation of judges and prosecutors and the amendment of certain normative acts (Official Journal of the Republic of Moldova, 2023, no. 325–327, art. 581), with subsequent amendments, the words “Anticorruption Prosecution Office” shall be substituted with the words “Prosecution Office on Anticorruption and Combatting Organised Crime”.

IX. – Article 10 of the Law on the state budget for 2025 no. 310/2024 (Official Journal of the Republic of Moldova, 2024, no. 556–559, art. 768), shall be amended as follows:

letter c), after the word “ prosecutors”, shall be completed with the text “ , except for prosecutors of the Prosecution Office on Anticorruption and Combatting Organised Crime”;

letter d) shall be completed with the following text:

“- prosecutors of the Prosecution Office on Anticorruption and Combatting Organised Crime”.

Explanatory Report
to the draft Law on the Prosecution Office for Anticorruption and Combatting Organised Crime

1. Title or name of the author, and, where appropriate, the participants in the development of the draft law
The draft Law on the Prosecution Office for Anticorruption and Combatting Organised Crime was developed by a group of the Members of Parliament, based on the decision of the Supreme Security Council of 20 January 2025, as well as on threats of electoral corruption, in particular, with direct involvement of organised criminal groups.
2. Premises for the development of the draft law
2.1. Legal basis, or, as appropriate, the source of the draft law
- Art. 73 of the ***Constitution of the Republic of Moldova no. 1/1994*** (*“**Article 73.** Legislative initiative - The right of legislative initiative belongs to the Members of Parliament, the President of the Republic of Moldova, the Government, the People’s Assembly of the Autonomous Territorial Unit of Gagauzia.”*); - Art. 47 of ***Law no. 797/1996 for the adoption of the Rules of procedure of the Parliament*** (***Article 47.*** *Conditions for exercising the right of legislative initiative and the subjects of this right*).
2.2. Current situation and matters requiring the intervention, including the applicable normative framework and the normative deficiencies/gaps
I. The analysis of the system of specialised prosecution offices in relation to the forms of crime against national security of the Republic of Moldova, in particular corruption, including political and electoral corruption, the involvement of organised criminal groups in the destabilisation of the rule of law, treason, subversive actions conducted by formations from foreign jurisdictions, hybrid warfare, etc. led to the conclusion that the system, which was created 10 years ago, does not cope with new challenges facing our country. The intention to reconfigure specialised prosecution offices in the area of fighting against corruption and organised crime is based on several political and legal premises: a) **the decision of the Supreme Security Council of 11 November 2024, on the subject of Combatting political and electoral corruption** Given the major challenges facing the Republic of Moldova, including the forms of hybrid crime manifested against the normal conduct of the electoral process (combined crime between political corruption, electoral corruption and organised crime), a fact derived from the circumstances in which the last elections were held, but also taking into account the danger posed by these forms of hybrid crime against other elections, including the next ones, which would ultimately jeopardise the state security, it was decided to urgently convene the Supreme Security Council. The Council meeting addressed, *inter alia*, the issue of reconfiguring specialised institutions to prevent and fight corruption, including electoral corruption. b) **parliamentary hearings of 6 and 7 December 2024 conducted by lead Committees** (Committee on National Security, Defense and Public Order; Legal Committee on Appointments and Immunities) of leaderships of law enforcement institutions for corruption prevention and Combatting, as well as representatives of other authorities/institutions with related responsibilities, as well as civil society, on the topic of electoral fraud reported during the presidential elections and the 2024 republican referendum. During the hearings, several deficiencies were found in the way in which some law enforcement institutions acted/cooperated in the process of preventing and Combatting corruption, in particular, electoral corruption.

c) **hearings of 12 December 2024 in the plenary session of the Parliament** of the heads of law enforcement institutions[1] for prevention and Combatting of corruption, including electoral corruption, on the topic of electoral fraud reported during the presidential elections and the 2024 republican referendum, when the same deficiencies in the action and cooperation of some law enforcement bodies in the process of preventing and Combatting electoral corruption were found.

d) **Decision of the Parliament of the Republic of Moldova no. 285 of 12 December 2024 regarding the outcome of the parliamentary hearings on the electoral fraud reported during the 2024 elections**[2].

Following the hearings, the plenary of the Parliament found that "*the 2024 elections were impacted by major challenges related to: a) illegal financing of the electoral campaign and corruption of voters in particularly large proportions, actions that are likely to affect democratic processes; b) defiance of electoral legislation and financial statements rules by creating new political entities and supporting formally independent candidates, but controlled, de facto, by members of the political party declared unconstitutional, actions that aim to compromise the integrity of the electoral process and undermine the democratic spirit of the law, demonstrating the intention to maintain an influence on the electoral outcome contrary to the decisions of the Constitutional Court and the will of the people of the Republic of Moldova; c) promoting an extensive mass disinformation campaign and hybrid information warfare financed from external sources, which aimed to subvert the democratic processes in the country, the free expression by citizens of their options on topics of major importance for the state and the population, aiming to substitute the citizen's priorities with an agenda foreign to national interests; etc.*".

e) **Decision of the Supreme Security Council of 20 January 2025, on the same subject regarding the political and electoral corruption Combatting**, issued during the Council's meeting for the assessment of the progress in Combatting political and electoral corruption.

Considering the seriousness of the deficiencies in the activity of institutions with powers to prevent and combat political and electoral corruption, including the perpetuation of these deficiencies, the Supreme Security Council decided, as a priority recommendation, to "***strengthen the institutional architecture of the entities responsible for Combatting corruption***".

The law enforcement institutions, in their current format, were established in other conjuncture and were dedicated to countering other forms and types of criminal phenomena, with an architecture shaped by the governance systems of the respective periods, and which are currently outgrown by the transformations that the criminal world has undergone and the challenges at the regional level, hence the need to adapt and improve them, empowering them to provide a proportionate response to the major risks that the state currently faces.

Since 2021, efforts have been made to normatively adapt[3] the existing legal institutions, which were the so-called *software* improvements that have yielded certain results in countering crime in its current forms.

However, the most recent and large-scale electoral fraud, which took place in the autumn of 2024, during the presidential elections and the national republican referendum on the European Integration of the Republic of Moldova, demonstrated that the situation was on the verge of getting out of control and only the involvement of all law enforcement institutions in countering massive crime allowed responding to threats to the rule of law.

Therefore, the events of the autumn of 2024 proved that the aforementioned adjustments to the normative framework were not sufficient to streamline the activity of the state's law enforcement

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[1] General Prosecution Office, Security and Intelligence Service, National Anticorruption Centre, General Police Inspectorate, Anti-Money Laundering Service, Central Electoral Commission, etc.

[2] https://www.legis.md/cautare/getResults?doc_id=146273&lang=ro

[3] Amendments to the Criminal Code regarding the categories of corruption-related crimes (including electoral corruption) and crimes against national security, as well as the amendments to the Criminal Procedure Code regarding the powers of criminal investigation bodies and specialised Prosecution Offices.

institutions, requiring reorganisations of law enforcement structures to make them act in harmony and not separately as is currently the case. These changes, by their nature, represent *hardware* reconfigurations and are targeted to adjusting the response of the law enforcement system to the described dangers.

In strengthening the idea of the need for reorganisation, multiple examples of interconnection of high-level corruption crimes with organised criminal groups or criminal organisations acting in consensus, can be presented, while specialised prosecution offices act on an individual basis, within the limits of their mandate, often conducting only investigations on fragments of large-scale crimes, which obviously leads to a substantial limitation in the effectiveness of the activity of countering the respective crimes.

Taking into account procedural aspects, the exchange of information between these two units is a sectoral one. Moreover, the institutional powers of these two specialised prosecution offices generate difficulties in establishing the institution responsible for examining large-scale cases, where the illegal use of financial flows and the use of crypto-currencies in committing corruption crimes are targeted, as well as the involvement of criminal organisations in high-level corruption, the penetration of organised criminal groups into the public system through acts of corruption and the use of state institutions and employees in subversive actions, etc.

Combatting corruption and organised crime represents one of the strategic priorities of the Republic of Moldova. This mission is crucial for strengthening the rule of law, protecting democratic values and developing a fair and secure society. The creation of a specialised prosecution office, which will manage these complex areas in an integrated manner, is an essential measure to respond to the challenges generated by the diversification and intensification of criminal activities.

This initiative represents a decisive step towards reforming the prosecution system, empowering it to provide an efficient and coordinated response to criminal phenomena with a significant impact on the economic and social stability of the country.

Clear definition of the attributions and autonomy of the new prosecution office would allow it to operate outside of political interference, which is vital for investigating cases of political and electoral corruption.

Also, the use of strict oversight and reporting mechanisms would prevent abuses and ensure institutional accountability. Through an independent and well-regulated structure, the Republic of Moldova could become a regional model of best practices in Combatting organised crime.

II. The organised crime and corruption are criminal phenomena that are closely linked. The motivation for creating a criminal organisation lies in the desire to gain as many profits as possible from the conducted criminal activity. The financial motivation of those involved in committing organised crime, and the social danger of such a form of crime is highlighted in the following extracts from recitals 1-3 of *(EU) Directive 2024/1260 of the European Parliament and of the Council on asset recovery and confiscation*[4], adopted on 24 April 2024:

- *"The main motive for criminal organisations that operate across borders, including high-risk criminal networks, is financial gain";*
- *"Criminal organisations have become worldwide economic operators with entrepreneurial objectives. Depriving criminals of illicit profits is essential in order to disrupt their activities and to prevent them from infiltrating legitimate economies.";*
- *"Europol's 2021 Serious and Organised Crime Threat Assessment (SOCTA) highlighted the rising threat from organised crime and criminal infiltration. Driven by the large revenue generated by organised crime, which amounts to at least EUR 139 billion every year and which is increasingly laundered through a parallel underground financial system, the availability of proceeds from*

[4] https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=OJ:L_202401260&qid=1720780389730

criminal activities poses a significant threat to the integrity of the economy and society, eroding the rule of law and fundamental rights."

Recital 9 of the same Directive underlines the poly-criminal nature of criminal organisations involved in a wide range of illicit activities in different markets, and their systemic and profit-oriented cooperation.

In fact, as stipulated in Art. 47 para. (1) of the *Criminal Code*, the purpose of creating criminal organisations (associations) is to try to influence the economic and other activities of individuals and legal entities or to control them in other ways in order to obtain advantages and achieve economic, financial or political interests. Obviously, in order to facilitate the achievement of these objectives, *i.e.,* to be able to influence or control an economic activity (that will yield profits), in most cases various acts of corruption are resorted to. It turns out that it is precisely the use of such (corruption) instruments by criminal organisations that is the most effective. In many cases, the source of the bribe is also illicit, originating from profit-yielding criminal acts, committed by criminal groups and organisations.

III. The link between the organised crime and corruption is mentioned in the text of several international instruments, including in certain EU documents.

Thus, for instance, the *Preamble of the UN Convention against Corruption*[5] highlights the concerns of the states parties to the Convention related to *"the link between corruption and other forms of crime, in particular organised crime"*.

The UN Convention against Transnational Organised Crime, adopted in New York on 15 November 2000, in force for the Republic of Moldova since 16 October 2005[6], even includes regulations on corruption. Precisely, Art. 8 of the Convention (Criminalisation of corruption) reveals the constituent elements of passive and active corruption. Art. 9 of the Convention contains measures against corruption.

A close interdependence between the organised crime and corruption is indicated in the *Preamble to the Criminal Law Convention on Corruption of the Council of Europe*, adopted in Strasbourg on 27 January 1999[7].

Also, Recital 3 of *Directive (UE) 2024/1260 of the European Parliament and the Council on asset recovery and confiscation* stipulates: *"Criminal organisations usually reinvest part of their profits from criminal activities to create a financial base enabling them to continue such activities. In addition,* ***criminal organisations often resort to*** *violence, threats, intimidation or* ***corruption*** *in order to acquire control of companies, obtain concessions, authorisations, tenders or grants, achieve illicit profits or advantages, or infiltrate key infrastructures such as logistic hubs. Such organisations therefore adversely affect the freedom of competition, or influence decisions of public authorities, threatening the rule of law and democracy."*.

Recital 6 of the *Framework Decision 2003/568/JAI of the Council of 22 July 2003 on Combatting corruption in the private sector*[8] underlines the following: "*It is the Union's objective to provide citizens with a high level of safety within an area of freedom, security and justice, an objective to be achieved by* ***preventing and Combatting crime, organised or otherwise, including corruption****"*.

Pursuant to the Communication of the European Commission to the European Parliament, Council, European Economic and Social Committee and the Committee of the Regions regarding the EU Strategy of Combatting organised crime 2021-2025[9], *"Organised criminal groups use their illegal profits to infiltrate the legal economy and public institutions,* ***including through corruption,***

[5] https://www.ani.md/sites/default/files/Conventia%20ONU.pdf
[6] https://www.antitrafic.gov.md/public/files/Conventia_ONU_crima_transdroguri.pdf
[7] https://www.cna.md/public/files/legislatie/conventia_penala_privind_coruptia_.pdf
[8] https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:32003F0568
[9] https://www.cdep.ro/afaceri_europene/afeur/2021/fi_3176.pdf

eroding the rule of law and fundamental rights and undermining people's right to security and their trust in public authorities".

According to the same Communication, *"The European Parliament stresses that the eradication of organised crime, fraud and corruption must be a political priority for the EU, while judicial and police cooperation between Member States is crucial in this regard"*.

In the introductory part of Europol's 2021, *Serious Organised Crime Threat Analysis*[10] (SOCTA 2021) report, the main findings include the relationship between organised crime and corruption: *"Corruption is a feature of most, if not all, criminal activities in the EU. Corruption occurs at all levels of society and can range from petty bribes to complex multi-million-euro corruption schemes. Corruption erodes the rule of law, weakens state institutions and hampers economic development. Corruption is a key threat that needs to be addressed in the fight against serious and organised crime. Almost 60% of the criminal groups reported for SOCTA 2021 are involved in acts of corruption"*.

IV. The interdependence of organised crime and corruption is also evident from their **cross-border nature**. Recital 1 of *Council Framework Decision 2003/568/JHA of 22 July 2003 on Combatting corruption in the private sector* states the following: *"In recent years, there has been an increase in cross-border trade in goods and services, in line with globalisation. Thus, any act of corruption occurring in the private sector of a Member State is no longer just a national problem, but also a* ***transnational problem*** *against which joint action by the European Union is the most effective tool for Combatting it."*

V. Comparative elements regarding judicial organisation

The concentration of Combatting the most serious acts of crime at the level of a single competent judicial institution and the practical consequences of such an option can be also analysed in a comparative manner, by examining in this regard the institution regulated in Croatia since 2001 (its operating model and efficiency were, therefore, also the object of evaluation by the European Union institutions, in the accession process, as a result of which Croatia became an EU member state on 1 July 2013).

USKOK – Office for the Suppression of Corruption and Organised Crime[11] operates on these fundamentals that are under our consideration in the context of the possible creation of a similar entity in our country; and regarding the adequacy of the exercise of powers by this structure in Croatia, the relevant source of information is the Rule of Law Report prepared by the European Commission[12] (see reports starting with 2020). The elements retained in 2024 and in relation to which recommendations were formulated[13] for the functioning of this institution refer to legislative amendments for correlation, increasing institutional capacity, with an emphasis on reducing the duration of case resolution.

The mentioned comparative elements are considered relevant for the present draft law, given the comparability at the level of the population of the Republic of Moldova and Croatia, as well as based on the set of crimes that fall within the scope of the two serious criminal phenomena (corruption and organised crime, respectively).

[10] https://www.europol.europa.eu/publications-events/main-reports/socta-report
The next evaluation by Europol is expected to be published in March 2025.
[11] https://uskok.hr/en/jurisdiction
[12] https://commission.europa.eu/strategy-and-policy/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/annual-rule-law-cycle_en
[13] https://commission.europa.eu/document/download/9abb25c0-0dfe-4006-8753-257844de834e_en?filename=27_1_58065_coun_chap_croatia_en.pdf
"The anticorruption strategy envisages revising the Criminal Procedure Code and the Law on USKOK, as well as increasing the capacity of the specialised prosecution office, also with a view to ensuring the completion of procedures within a reasonable time.".

Pursuant to Art. 21 of the *Croatian Law on the Office for the Suppression of Corruption and Organized Crime*[14], the following crimes are attributed, *inter alia,* to the jurisdiction of USKOK: abuse of power in the exercise of government positions; accepting bribes; accepting bribes in economic operations; offering bribes and offering bribes in economic operations; abuse of official power and authority, if these crimes were committed by an official; kidnapping; coercion; human trafficking and slavery; illegal transfer of persons across the state border; extortion; blackmail; money laundering; illegal collection of debts; drug abuse; all crimes committed by this criminal group or organisation, except for crimes against the Republic of Croatia and the armed forces; a crime committed in connection with the activity of a group of persons or a criminal organisation for which a penalty of imprisonment for more than three years is provided and if the crime was committed on the territory of two or more states or if a significant part of its preparation or planning was carried out in another state; organisers of a group of persons or a criminal organisation for the commission of crimes of pimping, illicit trade in gold and evasion of customs control; money laundering, tax evasion and other fees, etc.

VI. Both corruption and organised crime represent socially dangerous phenomena that **endanger state security**, the rule of law, and are, at the same time, real obstacles to the normal development of the economy and society.

Since criminal groups are involved in corrupting officials and penetrating the global financial system, organised crime (including cross-border crime), along with corruption and corruption-related acts, represent increased threats to national security.

Moreover, according to the *National Security Strategy of the Republic of Moldova*, approved by *Decision of the Parliament of the Republic of Moldova no. 391 of 15 December 2023*[15]*,* corruption and kleptocratic practices, as well as organised and/or cross-border crime, constitute threats to national security.

In order to achieve the national security and defense objectives, implicitly Combatting threats, risks and vulnerabilities, the Strategy establishes, *inter alia,* the following directions of action: "*harmonising national legislation and policies with European norms in the field of* ***Combatting*** *financial,* ***organised crime and corruption****; developing and implementing information and education programs for the population to increase awareness and involvement of citizens in preventing and* ***Combatting organised crime and corruption****; improving legal mechanisms to combat illegal financing of political parties and electoral corruption; improving the quality and reducing the duration of the criminal prosecution phase in cases of* ***organised crime****, economic crimes* ***and corruption****"*.

Through corruption, fraud of foreign funds, money laundering, by weakening state institutions and losing citizens' trust in the existence of the rule of law, organised crime undermines the democratic and economic foundations of society.

VII. The interdependent nature of corruption and organised crime also derives from the content of the articles of the Special Part of the Criminal Code that include incriminations in the sphere of corruption and corruption-related offenses. Therefore, for instance, the text of Art. 324 of the *Criminal Code* (article providing for liability for the offense of passive corruption) stipulates, as an aggravating circumstance mark, the fact of committing the offense *"in the interest of an organised criminal group or a criminal organisation"*. A similar aggravating circumstance can be found in the text of Art. 324[1] of the *Criminal Code* (passive political corruption), Art. 325 of the

[14] https://mvep.gov.hr/UserDocsImages/files/file/dokumenti/prevodenje/zakoni/11-Zakon-o-Uredu-za-suzbijanje-korupcije-i-organiziranog-kriminaliteta---neslu%C5%BEbeni-pro%C4%8Di%C5%A1%C4%87eni-tekst-NN-76-09,-116-10,-145-10,-57-11,-136-12,-148-13-ENG.pdf

[15] https://www.legis.md/cautare/getResults?doc_id=141253&lang=ro

Criminal Code (active corruption), Art. 325^1 of the *Criminal Code* (active political corruption), Art. 326 of the *Criminal Code* (traffic of influence), Art. 327 of the *Criminal Code* (abuse of power or abuse of office), Art. 333 of the *Criminal Code* (bribe taking), Art. 334 of the *Criminal Code* (bribe giving). The insertion of such an aggravating circumstance in the text of the above-mentioned norms constitutes an expression of the intention to prevent and combat two interdependent criminal phenomena. This fact demonstrates, once again, the close connection between organised crime and corruption, as well as other corruption-related acts.

The creation of a specialised Prosecution Office for Combatting Corruption and Organised Crime will eliminate the cases of negative conflict of jurisdiction when criminal groups, including those from abroad, are involved in cases of corruption, electoral corruption, and illegal financing of political parties for the purpose of electoral corruption. The new specialised prosecution office will have a large number of prosecutors, criminal investigation officers, investigation officers, consultants, and specialists, who will jointly investigate more efficiently and effectively cases of corruption, electoral corruption, and illegal financing of parties, including those with the direct involvement of organised criminal groups.

Furthermore, it should be noted that organised crime intersects with the crimes of defrauding the financial interests of the European Union (these are acts that, *lato senso,* must be considered as corruption-related crimes). Moreover, the Romanian legislation, for instance, classifies these acts as crimes directly related to corruption offenses, being stipulated in the text of *Law no. 78 of 8 May 2000 for the prevention, detection and sanctioning of corruption acts*[16].

The connection between the crimes of fraud against the financial interests of the European Union and those that constitute organised crime is evident from the text of Art. 332^2 of the *Criminal Code* itself – an article that provides for criminal liability for embezzlement of funds from external funds. More precisely, under para. (3) c) of Art. 332^2 of the *Criminal Code*, the aggravating circumstance "*in the interest of an organised criminal group or a criminal organisation"* is included. The Government of the Republic of Moldova approved, at its meeting of 15 January 2025, a draft law amending the *Criminal Code*, developed by the Ministry of Justice, in order to combat frauds against the financial interests of the European Union more effectively. The proposals include, *inter alia*, the completion of Art. 240 of the *Criminal Code* (misuse of funds from domestic loans or external funds) and Art. 332^1 of the *Criminal Code* (fraudulent obtaining of means from external funds) with the aggravating circumstance *"committed by an organised criminal group or a criminal organisation or for their benefit".*

The proposals derive from the text of Art. 8 of *(EU) Directive 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law*[17]*: "Member States shall take the necessary measures to ensure that, where an offence referred to in Articles 3, 4 or 5 is committed within the framework of a criminal organisation within the meaning of Framework Decision 2008/841/JHA, this is considered an aggravating circumstance".*

Recital 9 of *(EU) Directive 2024/1260 of the European Parliament and of the Council on asset recovery and confiscation* points out, in an emphatic manner, the increasing involvement of organised criminal groups in committing fraud to the financial interests of the European Union.

Internally, as a result of the analysis of the anticorruption system and the system for Combatting organised crime, related to the risks established in connection with the current criminal phenomena, there is evidence of a direct involvement of organised criminal groups in the destabilisation of the country's development vector, the rule of law, through acts of corruption both in the system of public institutions and in the electoral process at all levels – local, regional and national.

16 https://legislatie.just.ro/Public/DetaliiDocument/22361
17 https://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:32017L1371&from=RO

The complexity and interconnections between political corruption, electoral corruption, organised crime, treason and terrorism require an integrated approach. Such a specialised prosecution office would allow for more efficient coordination of investigations, reduction of reaction times and adoption of a pro-active strategy to combat these phenomena.

For example, electoral corruption can facilitate the access to public office of individuals involved in organised crime activities, who can subsequently threaten national stability through acts of treason or subversive actions against the state. Investigating these links requires specialised teams, trained to address these interconnected threats.

VIII. Comparative examination of the recommendations formulated by the Venice Commission for the Council of Europe states regarding the guarantees of prosecutors.

In the framework of principles and standards developed by the Venice Commission, the issue of merging a prosecution office was analysed with regard to Poland[18] – the discussion being not relevant for the Republic of Moldova, as the situation examined in Poland envisaged the inclusion of the Prosecution Office under the Ministry of Justice, with the Minister of Justice holding, as well, the position of Prosecutor General.

Another analysis closer to the meaning of the measures proposed by this draft law can be found in **Opinion[19] 1079/2022 CDL-AD(2022)003 on the draft law on the abolition of the Unit for the Investigation of Criminal Offences in Justice (Romania).** While acknowledging that the organisation and structure of a criminal prosecution service is a matter to be decided by the state authorities, the Venice Commission supported the institutional specialisation in the fight against corruption (see §18), whereas only the organisation of a prosecution office is modified, not its specialisation. While, with regard to prosecutors, the envisaged institutional changes do not involve measures that are linked to the prosecutor in person or dependent on their professional conduct, but are of a **general nature**, the Venice Commission held that the **measures respect[20] the principle of prosecutors' independence**.

The Venice Commission notes[21] that: *"In conclusion, the changes introduced as a result of the reorganisation of the judicial system should be carried out in such a way as **not to pose problems for** the administration of justice and **the treatment of the initially appointed prosecutors.** These changes must ensure that the principle of independence of each prosecutor is not affected. Prosecutors should always be treated with due respect for their position within the prosecution service as such. Therefore, **their position must be considered independent to a certain extent**, but not to the same extent as that of judges."*

IX. The creation of a single specialised prosecution office would be a more efficient solution, given the **indissoluble link between corruption and organised crime**. This would allow for better investigation of criminal cases.

The creation of a centralised structure would also allow for better international cooperation, facilitating the rapid exchange of information with other states and international organisations.

The Republic of Moldova could, through a unified and well-coordinated structure, recover assets valued at hundreds of millions of Moldovan lei annually, thus contributing to the increase in budget revenues. These funds could be reinvested in education, health or infrastructure, etc.

The solution regarding the merging of the Anticorruption Prosecution Office and the Prosecution Office for Combatting Organised Crime and Special Causes into a single specialised

[18] CDL-AD(2017)028, Poland - Opinion on the Act on the Public Prosecutor's office, as amended, §§ 91, 95 and 99.

[19] https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2022)003-e

[20] https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)019-e Opinion 1036/2021 of 5 July 2021 CDL-AD(2021)019 (the same draft law, at a different stage o proofreading); see § 38 – final.

[21] § 42 –Opinion 1036/2021 of 5 July 2021, cited above.

structure has the potential to generate multiple economic and social benefits, contributing more effectively to the development of the rule of law and to the increase of the quality of life of the citizens of the Republic of Moldova.

By strengthening competences and eliminating conflicts of jurisdictions, the unified structure will be able to react to complex criminal phenomena more quickly and efficiently. International experience shows that the implementation of such structures can lower the crime rate, especially in cases of corruption and organised crime.

At the same time, the unified structure will allow for better use of modern investigation technologies, including the use of artificial intelligence to analyse complex data flows, which will significantly increase the efficiency of investigations.

The creation of a specialised and transparent institution will enhance public trust in state institutions. Citizens will perceive the state as more efficient and committed to Combatting corruption and organised crime, which will stimulate civic participation and respect for the law. Effectively Combatting terrorism and cross-border criminal networks will step up the level of security perceived by the population. This perception of security will contribute to social stability and stimulate the development of local communities.

A strong and efficient institution compliant with international standards, will position the Republic of Moldova as a reliable partner in international cooperation. This will facilitate access to international funding and strategic partnerships, such as those with Europol and Interpol. At the same time, such a structure will allow the Republic of Moldova to actively participate in global initiatives of Combatting crime, increasing its position and credibility in this sector on the international arena.

The creation of a Specialised Prosecution Office for Combatting Corruption and Organised Crime is a necessary step for the sustainable development of the rule of law and for fostering a stable social and economic climate in a country aspiring to European integration. This reform will address current shortcomings, streamline resource allocation and increase citizens' trust in state institutions, while also providing a model of best practices in the region.

3. Pursued objectives and proposed solutions

3.1. Main provisions of the draft law and the highlight of new elements

This draft law was developed based on the concept of creating a new single specialised prosecution office – **the Prosecution Office for Anticorruption and Combatting Organised Crime (*hereinafter - PACCO*)**, which will take over the mandate and be the legal successor of the two currently existing specialised prosecution offices and which are provided for by *Law no. 3/2016 on the Prosecution Office* (Prosecution Office for Combatting Organised Crime and Special Causes (*hereinafter - PCCOCS*) and Anticorruption Prosecution Office (*hereinafter - PA*)).

Consequently, without giving up on the generic concept of specialised prosecution office (which derives from the provisions of Art. 7 para. (1) of *Law no. 3/2016* – *"(1) The Prosecution Office is a single system, which includes: a) the General Prosecution Office; b) specialised prosecution offices; c) territorial prosecution offices."*, and also from the provisions of Art. 9 of the respective law, where the basic features of specialised prosecution offices are defined), which otherwise appears sporadically in legal norms of a number of other normative acts (in parallel with norms where the names of the two currently existing specialised prosecution offices are expressly mentioned – PCCOCS and PA), a paradigm shift will be introduced in this regard. This will include the repeal of *Law no. 159/2016 on specialised prosecution offices*, which provides a generic legal framework for regulating the organisation and functioning of specialised prosecution offices, established by *Law no. 3/2016* (further developed in the rules of procedure for the activity of the two currently existing specialised prosecution offices – PCCOCS and PA) and the enshrinement of a special law, instead, having the customised regulation of the organisation and functioning of the specific specialised prosecution office – PACCO – as the basic object.

In relation to the provisions of Art. 9 paras. (1) and (2) of *Law no. 3/2016* (which establish, as follows: *"(1) Specialised prosecution offices operate in certain special fields and exercise their* *powers throughout the territory of the Republic of Moldova. The Anticorruption Prosecution Office and the Prosecution Office for Combatting Organised Crime and Special Causes operate within the Prosecution Office system. If necessary, other specialised prosecution offices may be created by law. (2) The powers, competence, organisation and functioning of specialised prosecution offices are regulated by special laws, criminal procedure legislation and their own activity regulations.”),* we specify that the solution proposed by the draft law does not imply giving up on the abstract possibility of creating, if deemed necessary, other specialised prosecution offices in the future, but merely on the perspective according to which all these specialised prosecution offices would fall within a single pattern (currently stipulated in *Law no. 159/2016*), providing for distinct particularities only in the text of their activity regulations, approved by orders of the Prosecutor General. In return for this, a vision for the future entails that each specialised prosecution office (starting with PACCO, which is proposed to be currently created) would benefit from its own regulation at the organic law level (an approach that is similar to the already invoked Croatian model (USKOK), and the one existing in Romania, as well, where the National Anticorruption Directorate (by *Government Emergency Ordinance no. 43/2002*) and the Directorate for the Investigation of Organised Crime and Terrorism Offences (by *Government Emergency Ordinance no. 78/2016*) have their own separate regulations), and which we deem to represent a superior and more flexible approach in the given context.

Concerning the draft Law on the Prosecution Office for Anticorruption and Combatting Organised Crime, we specify that it does not diverge conceptually from the model existing within *Law no. 159/2016*, preserving, in this sense, the general structure of the law and the relevant regulations within the respective articles, with the appropriate adjustment to aim and be applied directly with reference to PACCO.

The only significant difference, which deserves to be expressly noted and explained within this substantiation note, concerns the inclusion in the draft law of a new provision in relation to the current provisions of *Law no. 159/2016* (Art. 6 of the draft law), which will regulate the evaluation of the work of the chief prosecutor of PACCO. With reference to this provision in the draft, it should be mentioned that it essentially transposes, in relation to the chief prosecutor of PACCO, an already existing mechanism concerning the Prosecutor General, and which is regulated under Art. 31^1 of *Law no. 3/2016*. The adoption of this provision will create premises for a first-time evaluation of the performance of the chief prosecutor of the specialised prosecution office (here - PACCO) by an evaluation commission, established ad hoc by the Superior Council of Prosecutors (for the purpose of assessing the activity and the compliance with the held position).

The performance evaluation of the Chief Prosecutor of PACCO may be initiated exclusively upon notification by the Prosecutor General or at least 1/3 of the members of the Superior Council of Prosecutors and may not take place more often than once every two years and may cover only the period preceding the date of the evaluation in which the person has actually worked. Multiple evaluation procedures may not be initiated for the same period of activity.

The work of the Chief Prosecutor of PACCO will be evaluated in light of the same criteria as the work of the Prosecutor General, and namely: a) management skills; b) professional skills; c) efficiency; d) efficient internal and external communication.

Following the performance evaluation of the Chief Prosecutor of PACCO, the evaluation commission shall draw up, within 30 days at the latest, a reasoned report proposing the assignment of one of the following ratings: “excellent”, “good”, “unsatisfactory”. The report with the proposed rating, which is of an advisory nature, shall be submitted to the Superior Council of Prosecutors, which shall, as a result of its examination, adopt a decision on the assignment of one of the ratings: “excellent”, “good”, “unsatisfactory” or, if it is deemed that the evaluation carried out by the commission took place in violation of the procedure, which determined the evaluation outcomes, it shall adopt a decision to return the report for the resumption of the performance evaluation procedure. The most notable effect of this procedure is that in the event of the adoption of the decision on the assignment of the “unsatisfactory” rating, the Superior Council of Prosecutors will be able to propose to the Prosecutor General the dismissal of the Chief Prosecutor of PACCO before the end of the mandate.

It is appropriate to note in this regard that the provisions in the draft law regarding the performance evaluation of the Chief Prosecutor of PACCO transpose an improved version over time of the already existing evaluation mechanism with regard to the Prosecutor General, including following the opinion of the Venice Commission on this mechanism (*Opinion of the Commission no. CDL-AD (2021)047*[22]) and the adjustment of the given provisions to the recitals set out in this Opinion.

Another new regulation in the draft law (as compared to the current provisions of *Law no. 159/2016*) will expressly specify the role and concrete attributions of PACCO under Art. 3, in which the area of competence of PACCO is established. PACCO will be specialised in two areas:

a) Combatting corruption crimes and corruption-related actions, and

b) Combatting organised crime, terrorism and torture,

having the following specific attributions:

1. conducting criminal prosecution in cases of corruption and corruption-related actions, torture crimes, terrorist crimes and crimes committed by a criminal organisation, as well as in other cases under its competence, according to the criminal procedure legislation;

2. conducting criminal prosecution in cases of crimes in which criminal prosecution is carried out by the criminal prosecution bodies of the specialised central entities;

3. conducting or leading criminal prosecution in cases submitted thereto for investigation by the Prosecutor General;

4. representing the prosecution in the trial court, court of appeal and recourse in the cases mentioned above.

Along with the direct text of the law regulating PACCO, it is necessary to mention that its establishment instead of the two currently existing specialised prosecution offices (PCCOCS and PA) will request compliant adjustments in other laws that contain provisions expressly referring to the two prosecution offices to be liquidated.

Therefore, in order to comply with the provisions of art. 63 para. (4) of Law no. 100/2017 on normative acts, the draft law also includes an Attachment with the list of laws to be amended, as follows:

- *Law no. 1325/1997 for the approval of the General Classifier of legislation*;
- *Code of Criminal Procedure of the Republic of Moldova no. 122/2003*;
- *Law no. 241/2005 on prevention and Combatting human trafficking*;
- *Law no. 3/2016 on the Prosecution Office*;
- *Law no. 132/2016 on the National Integrity Authority*;
- *Law on integrity no. 82/2017*;
- *Law no. 252/2023 on external evaluation of judges and prosecutors and for the amendment of certain normative acts*;
- *Law on the state budget for 2025 no. 310/2024*.

Among the most essential interventions to be operated to the related normative framework, the following can be singled out:

A) Regulation in the *Code of Criminal Procedure* of the subject-matter jurisdiction of the new Prosecution Office – the Prosecution Office for Anticorruption and Combatting Organised Crime.

Therefore, the Prosecution Office for Anticorruption and Combatting Organised Crime shall:

(1) conduct the criminal prosecution of offences foreseen under Art. 324–335^1 and Art. 352^1 para. (2) of *Criminal Code no. 985/2002*:

[22] https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2021)047-e

1) if committed by: a) persons whose manner of appointment or election is regulated by the Constitution of the Republic of Moldova, with the exception of locally elected officials, other than those specified in letter b); b) mayors, deputy mayors, local councillors of the municipalities of Chisinau, Balti, Cahul, Comrat and Bender; c) persons who are invested in office, by appointment or by election, by the Parliament, the President of the Republic of Moldova or the Government; d) senior management civil servants; e) inspectors-judges within the Judicial Inspection or inspectors within the Prosecutors' Inspection; f) the Secretary of the Supreme Security Council, the Chief of the General Staff of the National Army, other persons in positions of responsibility within the General Staff of the Armed Forces, as well as persons holding the military rank of general or a special rank corresponding thereto; g) Deputy Director of the State Fiscal Service; h) Deputy Director of the Customs Service; i) Director and Deputy Director of the Public Procurement Agency; j) Deputy Head of the General Police Inspectorate, Deputy Head of the General Inspectorate of Border Police and Deputy Head of the General Inspectorate of Carabinieri; k) Deputy General Director of the National Health Insurance Company; l) employees of the National Anticorruption Centre in connection with the exercise of their official duties; m) intelligence and security officers;
2) regardless of the person's status, if the amount of money, the value of goods, services, privileges, advantages in any form, and other benefits, claimed, promised, accepted, offered, given or received, exceeds 10,000 conventional units or if the value of the damage inflicted by the crime exceeds 100,000 conventional units.

(2) conduct the criminal prosecution in the case of:
1) terrorist crimes within the meaning of art. 134^{11} of the *Criminal Code*;
2) crimes foreseen under art. 135–144, art. 166^1 para. (3) and (4), art. 279, 283, 284, 295–295^2, 337–346 and 352^2 of the *Criminal Code*;
3) crimes foreseen under art. 181^2 para. (5) and art. 181^3 of the *Criminal Code*;
4) crimes foreseen under art. 243 of the *Criminal Code*, if the goods derive from crimes under this article or if the crime was discovered pursuant thereto and the main crime is not known;
5) crimes foreseen under art. 244, 248–248^2 and 249 of the *Criminal Code*, if the customs value of goods, of import rights or the damage caused by the crime exceeds 50,000 conventional units;
6) particularly serious and exceptionally serious crimes committed by an organised criminal group within the meaning of art. 46 of the *Criminal Code*, with the exception of those referred to in art. 269 of this Code;
7) crimes committed by a criminal organisation (association) within the meaning of art. 47 of the *Criminal Code*, with the exception of those mentioned under art. 269 of this Code;

(3) conduct the criminal prosecution in the case of crimes foreseen under art.191 of *Criminal Code no. 985/2002* if committed through the abuse of power by persons specified under para. (1) 1);

(4) conduct the criminal prosecution in the case of crimes foreseen under art.243 of *Criminal Code no. 985/2002* if the goods derive from corruption crimes or corruption-related crimes and the crime was committed by the persons specified under para. (1) 1);

(5) conduct the criminal prosecution in the case of crimes foreseen under art.325 and 326 of *Criminal Code no. 985/2002* if committed by persons specified under para. (1) 1);

(6) conduct the criminal prosecution in the cases in which it is carried out by criminal prosecution bodies under general territorial jurisdiction: 1) Ministry of Internal Affairs; 2) Customs Service; 3) State Fiscal Service.

B) Adjustment of provisions under *Law no. 3/2016 on the Prosecution Office*, in particular, the text containing the regulation of specialised prosecution offices, in tandem with the idea of replacing PCCOCS and PA with PACCO.

C) Amendment of *Law no. 252/2023 on external evaluation of judges and prosecutors and the amendment of certain normative acts* by including the prosecutors of the new specialised prosecution office under the subjects to be evaluated as a priority, and also the continuation of the ongoing external evaluation procedures of the ethical and financial integrity of prosecutors.

D) Interventions in the content of art. 10 of the *Law on the state budget for 2025 no. 310/2024*, according to which the prosecutors of PACCO will be entitled to an increased reference value in relation to all other prosecutors in the country (MDL 3 000, as compared to MDL 2 850), which should constitute an additional incentive for the attractiveness of the positions within this prosecution office.

Finally, given the peculiarity of this draft law, which aims to liquidate two specialised prosecution offices within the structure of the Prosecution Office and create, instead, a new specialised prosecution office, it also envisages an extensive list of final and transitional provisions setting up the date of entry into force of the draft law and the measures necessary for its implementation, as well as the measures for the continuation of legal relations arising under the old regulations to be repealed or replaced by the new normative act. In this regard, we mention that when drafting the final and transitional provisions of the draft law, an analysis of similar provisions within *Law no. 3/2016 on the Prosecution Office* was considered (given that at the time of its adoption, a number of prosecution offices in the country were also liquidated – the appeal court prosecution offices, the military prosecution offices and the Prosecution Office on transport), as well as the experience from abroad (the provisions of *Law no. 49/2022 on the abolition of the Unit for the Investigation of Justice Crimes, as well as for the amendment of Law no. 135/2010 on the Code of Criminal Procedure (Romania)*).

Thus, it is to be initially specified that the final provisions of the draft law imply that, by way of derogation from the provisions of art. 56 para. (1) of *Law no. 100/2017 on normative acts*, this draft normative act shall enter into force on the date of its publication in the Official Journal of the Republic of Moldova. This derogation is imperative, given the urgent need to ensure the creation and putting into operation of the new entity within the structure of the Prosecution Office, an action which, as indicated in the contents of this substantiation note, is to ensure a step forward in the development of the rule of law and the increase in the quality of life of the citizens of the Republic of Moldova, and which will also contribute to the implementation of some recitals of the Constitutional Court from *Decision no. 25 of 28 November 2024 on the confirmation of the election results and the validation of the mandate of the President of the Republic of Moldova* (which targeted the need to undertake additional actions for streamlining the fight against electoral corruption).

Other final and transitional provisions of the draft law will ensure the regulation of matters related to:

- the moment of the establishment of PACCO (art. 11 para. (3) of the draft law);
- the moment of the cessation of activity of PCCOCS and PA (art. 11 para. (4) of the draft law);
- the prospective of prosecutors and other staff within the specialised prosecution offices to be liquidated (art. 11 para. (5)-(7) of the draft law);
- issues related to the transfer of property, as well as of PCCOCS and PA files/archive, to PACCO (art. 11 para. (8)-(11) of the draft law);
- tasks assigned to the responsible public authorities (Government, Superior Council of Prosecutors, Prosecutor General) in order to ensure the effective implementation of the provisions of this draft law (art. 11 paras. (13)-(20) of the draft);
- the particular situation of prosecutors who passed the competition for positions within PACCO, in relation to the need to complete the external evaluation procedure of ethical and financial integrity, provided for by *Law no. 252/2023 on the external evaluation of judges and prosecutors and the amendment of certain normative acts* (art. 11 paras. (21)-(23) of the draft);

- special guarantees related to the preservation of the wage rights of prosecutors, chief prosecutors and their deputies who currently work within the PCCOCS and PA and who will be transferred to the territorial prosecution offices, following the liquidation thereof (art. 11 paras. (24)-(26) of the draft). However, these guarantees will be of a temporary nature, considering that, following the liquidation of the PCCOCS and PA and the creation of the PACCO, these prosecutors will also have the possibility to apply for positions within the new specialised prosecution office, by participating in the competitions organised therefor and by subsequently completing the external evaluation procedure of ethical and financial integrity, thus ensuring the definitive safeguarding of the situation regarding the remuneration received for professional activity, as long as the procedures are passed. In the event that they will not be able to access to the new specialised prosecution office for various reasons (for example, they will be reluctant to submit their candidacies to the competitions for positions within PACCO), once all vacancies within the Prosecution Office for Anticorruption and Combatting Organised Crime are filled with prosecutors who have passed the external evaluation procedure of ethical and financial integrity, provided for by *Law no. 252/2023 on the external evaluation of judges and prosecutors and the amendment of certain normative acts*, they will lose the wage rights deriving from the positions they held within the PCCOCS and PA and will benefit in the future from the wage rights related to the prosecutor positions they hold at the respective time within the territorial prosecution offices (this fact would ensure for these subjects, to some extent, a similarity with the situation in which the two specialised prosecution offices had not been liquidated and the PACCO had not been established, since, in that case, they would anyway have been subject to the obligation to undergo the vetting procedure, provided for by *Law no. 252/2023*, and if they had not passed the respective procedure, they would have had to be dismissed from the positions they held within the PCCOCS or PA, pursuant to the provisions of art. 18 para. (5) of the respective law). - temporary preservation of the situation on criminal cases handled by the two specialised prosecution offices, until the moment when PACCO would become operational and take over the corresponding duties – measures that operate by law and measures whose implementation falls under the responsibility of the competent authorities (transitional provisions under art. 12 of the draft law).
3.2. Alternative options analysed and reasons why they were not considered
No alternative options were identified.
4. Analysis of the regulation impact
4.1. Impact on the public sector
The creation of a specialised prosecution office would allow the concentration of human and logistical resources on particularly serious cases. Prosecutors and auxiliary staff could be selected on the basis of strict criteria of competence and would subsequently benefit from periodic training in areas such as investigating illicit financial flows, identifying manipulation of electoral processes, advanced techniques for countering subversive actions against the state, and Combatting transnational organised crime networks. Following such training, the staff would acquire essential skills for dealing with new criminal methods, which are becoming increasingly sophisticated and border transcending. This approach would lead to an increase in the quality of justice and an improvement in the resolution of complex cases. A unified and specialised prosecution office would also ascertain the state's firm commitment to the fight against corruption and organised crime. In a context where citizens perceive the lack of efficiency and transparency in the fight against corruption and organised crime, the establishment of a dedicated structure would contribute to strengthening public trust and deterring criminal behaviour.
4.2. Financial impact and justification of estimated costs

It is anticipated that this draft law will have an impact on the national public budget, which is currently difficult to be determined, since it depends on certain subsequent measures/decisions to be taken by the public authorities responsible for implementing the provisions of the draft.

In this context, it can be noted that the elimination of institutional overlaps and the centralisation of resources will lead to a decrease in administrative expenses, for example, the reduction of costs related to logistics, infrastructure, certain redundant administrative staff in the merged prosecution offices, which may lead to savings of certain amounts from the current budgets allocated to the two entities that are proposed to be liquidated. These saved funds could be redistributed for technology investments and staff training, increasing the impact and efficiency of the centralised structure.

From an economic point of view, the reform and unification of existing structures will reduce administrative expenses by eliminating institutional redundancies and optimising resource allocation. The savings obtained from reducing administrative costs can be redistributed for the implementation of advanced technologies and for the professional development of staff.

It is also worth noting that the development partners support the activity of the new specialised prosecution office.

4.3. Impact on the private sector

Not applicable.

4.4. Social impact
4.4.1. Impact on personal data
4.4.2. Impact on gender equality

Not applicable.

4.5. Impact on the environment

Not applicable.

4.6. Other impact and relevant information

Not applicable.

5. Compatibility of the draft normative act with the EU legislation

5.1. Regulatory measures necessary for the transposition of EU legal acts into national law

Not applicable.

5.2. Regulatory measures aimed at creating the internal legal framework necessary for the implementation of EU legislation

Not applicable.

6. Approval and public consultation of the draft normative act

In order to comply with the provisions of *Law no. 239/2008 on transparency in the decision-making process*, the draft law is placed on the official website of the Parliament (www.parlament.md)

7. Conclusion of expertise

The draft law shall be submitted, according to art. 34 para. (1), art. 36 and art. 37 of *Law 100/2017 on normative acts*, to the Ministry of Justice and the National Anticorruption Centre for legal and anticorruption expertise. The draft law shall be completed after the expertise is carried out.

8. Integration of the act into the existing regulatory framework

The draft law implies the amendment/adjustment of the *Law on the state budget for 2025*, and *Law no. 270/2018 on the single payroll system in the budgetary system*.

9. Measures necessary for the implementation of the draft law provisions

The Superior Council of Prosecutors, based on the proposal of the Prosecutor General, shall approve the structure and staffing of the Prosecution Office for Anticorruption and Combatting Organised Crime, and open the competition for the position of Chief Prosecutor of the Prosecution Office for Anticorruption and Combatting Organised Crime.

After the conclusion of the competition for the position of Chief Prosecutor of the Prosecution Office for Anticorruption and Combatting Organised Crime, the Superior Council of Prosecutors shall subject the first two candidates of each competition to the evaluation pursuant to *Law no. 252/2023*. Subsequently, after the receipt of the reports of the Prosecutors Evaluation Commission, the Superior Council of Prosecutors shall propose the appointment of the Chief Prosecutor of the Prosecution Office for Anticorruption and Combatting Organised Crime.

The Government will assign the financial resources necessary to cover the procurement of equipment and other needs to ensure the functioning of the Prosecution Office for Anticorruption and Combatting Organised Crime; will identify the premises of the Prosecution Office for Anticorruption and Combatting Organised Crime and will provide the financial resources for the activity of the newly created prosecution office; will submit proposals to amend the *Law on the state budget for 2025*.

Members of the Parliament